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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/083,904	02/27/2002	George W. Szytkiel	08152-00135	4875

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EXAMINER

PHAN, HAU VAN

ART UNIT	PAPER NUMBER
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3618

DATE MAILED: 07/31/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/083,904

Applicant(s)

SZTYKIEL ET AL.

Examiner

Hau V Phan

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 February 2002.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 14-17 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8, 18 and 20 is/are rejected.
- 7) ☒ Claim(s) 9-13 and 19 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 February 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2. 6) ☐ Other: _____

DETAILED ACTION

Election/Restrictions

1. Applicant's election of group I, figures 1-3 and 5, claims 1-13 and 18-20 in Paper No. 5 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).
2. Claims 14-17 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in Paper No. 5.

Information Disclosure Statement

3. The information disclosure statement (IDS) submitted on 2/27/2002 has been considered.

Acknowledgment

4. The power of attorney filed on 3/13/2002 has been considered.

Claim Objections

5. Claim 9 is objected to because of the following informalities: The term "its" should be changed to -- a --. Appropriate correction is required.

Abstract

6. The abstract of the disclosure is objected to because the phrase “the invention is” and “the present invention provides” should be deleted. The term “its” should be changed to – an --. Correction is required. See MPEP § 608.01(b).

Claim Rejections - 35 USC § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

8. **Claims 1-7 and 20 are rejected under 35 U.S.C. 102(e) as being anticipated by Gaspard, II et al. (6,336,676).**

Gaspard, II et al. in figures 1, 2a and 3 disclose a powertrain configuration for a truck chassis comprising a chassis having at least two frame rails (125) and at least one intermediate cross member (figure 2a). Gaspard, II et al. also disclose a forward wheel (not number, figure 3) attached to a forward region of the chassis, a rearward wheel (not number, figure 3) and an engine (300) position between and attached to the two chassis frame rails. Gaspard, II et al. further disclose the engine, which can be positioned at any suitable position in order to provide the requisite power to a drive axle (col. 17, lines 14-55). Therefore, an overall engine height can be extended at most only ten percent above a top of the chassis frame rails

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Regarding claim 2, Gaspard, II et al. disclose a transmission (not shown, col. 6, lines 62-63) attached to the engine.

Regarding claim 3, Gaspard, II et al. disclose a driveshaft (330, figure 3) or a driveshaft (762, figure 8c), which is attached to the at least one wheel assembly.

Regarding claim 4, Gaspard, II et al. disclose a set of drive wheels comprising the forward wheel assembly (figure 3).

Regarding claim 5, Gaspard, II et al. disclose a set of drive wheels comprising the rearward wheel assembly (figure 3).

Regarding claim 6, Gaspard, II et al. disclose a set of drive wheels comprising the forward wheel assembly and the rearward wheel assembly (figure 3).

Regarding claim 7, Gaspard, II et al. in figures 7-9d disclose a truck comprising at least two chassis frame rails (830) having a forward region and a rearward region (figure 8c) and at least one intermediate cross member (not number, figure 8c) connecting the chassis frame rails. Gaspard, II et al. also disclose a forward wheel assembly (755) comprising at least one forward axle (750, figure 8c) and a forward suspension assembly (figure 8c) attached to the chassis frame rails and a rearward wheel assembly (figure 8c) comprising at least two rearward wheels (775), at least one rearward axle (770) and a rearward suspension assembly (figure 8c) attached to the chassis frame rails (figure 8c). Gaspard, II et al. also disclose a powertrain comprising an engine (740), a transmission and a driveshaft (not number, figure 8c). The driveshaft mounted to the at least one wheel assembly and the powertrain, which is positioned between and attached to the chassis frame rails between the front wheel assembly the

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rear wheel assembly. Gaspard, II et al. further disclose the engine, which can be positioned at any suitable position in order to provides the requisite power to a drive axle (col. 17, lines 14-55), and the engine also can be positioned between the front wheel assembly the rear wheel assembly. Therefore, the engine's top can be extended no more than 10 percent of an overall engine height above the chassis frame rails.

Regarding claim 20, Gaspard, II et al. disclose the placement of the powertrain, between the chassis frame rails based on mathematically and government regulation to provide a safety to the truck (col. 16, lines 21-60).

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. **Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gaspard, II et al. (6,336,676) as applied to claim 7 above, and in view of Georgoulis (6,062,716).**

Gaspard, II et al. disclose the chassis frame rails, but fail to show a cooling system.

Georgoulis in figures 1-3 teaches a front-end discharge truck comprising a cooling system having a radiator (32), which is disposed between chassis frame rails (12). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the powertrain configuration for a truck chassis of

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Gaspard, II et al. with the front-end discharge truck comprising a cooling system as taught by Geogoulis in order to receive a very adequate air flow during movement of the truck.

11. **Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gaspard, II et al. (6,336,676) as applied to claim 7 above, and in view of Shearn et al. (5,499,690).**

Gaspard, II et al. disclose the chassis frame rails, but fail to show a cooling system mounted outside of the chassis frame rails.

Shearn et al. in figure 2 teach an integral hood, radiator and bumper support apparatus comprising a cooling system (24), which is mounted outside of chassis frame rails (46). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the powertrain configuration for a truck chassis of Gaspard, II et al. with the integral hood, radiator and bumper support apparatus comprising a cooling system, which is mounted outside of chassis frame rails as taught by Shearn et al. in order to allow movement of the cooling system independent from the chassis rails.

Allowable Subject Matter

12. Claims 9-13 and 19 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

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Conclusion

13. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Willard discloses a forward discharging transit concrete mixer, Church discloses a motor vehicle, Fageol discloses a vehicle suspension, Henrichsen discloses an articulated bus, Telesio discloses a vehicle with quick-disconnect engine module, Cady discloses a public service vehicle, Blackburn et al. disclose a terminal tractor, Nonnenmann et al. disclose a cooling system, Monclin discloses a composite road vehicle, Williams et al. disclose an integrated superstructure chassis and Langervik discloses a vehicle lubricant temperature control.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hau V Phan whose telephone number is 703-308-2084. The examiner can normally be reached on 7:30AM-4:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Johnson can be reached on 703-308-0885. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9326 for regular communications and 703-872-9327 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.

HP
July 23, 2003

Hau Phan
7/24/03

HAU PHAN
PATENT EXAMINER